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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,636	04/14/2004	Marlene C. Schwarz	12013/47401	4614
23838	7590	10/24/2006	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			CAMERON, ERMA C	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,636	<b>Applicant(s)</b> SCHWARZ, MARLENE C.	
	<b>Examiner</b> Erma Cameron	<b>Art Unit</b> 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castro et al (6616765).

'765 teaches applying a coating 10 of polymer, solvent and therapeutic substance (such as an anticoagulant) (12:45-67) to a stent or other prostheses 12 thru a dispensing assembly 22 that includes a nozzle 26 and an orifice 28 (6:16-35). The stent may be in a holder assembly 14 (7:12-35). Delivery of the coating may be passive or active (8:11-22). The orifice 28 can have a range of diameters and stream widths (8:1-20; 15:34-56). The dispenser assembly and prosthesis may move relative to each other, and the prosthesis may rotate (14:50-15:27). There may be more than one dispenser assembly (hence a first and second slide surface), and a second composition 80 may be applied over the first composition 10 (7:52-67; 17:61-19:18).

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Although '765 does not describe the nozzle as a slide coating head, the coating material does slide down the inside of the nozzle 26 before reaching the prosthesis 12. Orifice 28 on the nozzle may be considered a slot. The nozzle 26 should not come into contact with the prosthesis 12 (7:52-67), thus leading to a free-fall of the coating 10 from the nozzle 26 onto the prosthesis 12, hence curtain coating. The upper and lower surfaces of the nozzle may be considered first and second, or upper and lower plates. Wherever the coating 10 enters the dispenser 22 can be considered to be an inlet orifice.

### ***Response to Arguments***

First, the applicant has argued in the 8/9/2006 response that the orifice of Castro '765 is located downstream of the slide surface, in contrast to applicant's dispelling material from an upstream orifice onto a slide surface. The examiner would argue that there necessarily must be an opening on reservoir 24 to fill it, in other words, an orifice with which the coating material enters reservoir 24.

Second, the applicant has argued that Castro does not disclose the orientation of a plurality of dispenser assemblies such that the second coating material flows on top of the first coating material. The examiner responds that a second composition may be deposited concurrently with or subsequent to the first application of composition (17:61-68). In one embodiment (18:33-48), the second composition 80 covers first composition 10, thus meeting the limitations of flowing on top.

Third, the applicant argues that Castro does not disclose a plurality of plates. The examiner's position is that plate may be defined as any surface within the reservoir 24, and

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therefore reservoir 24, nozzle 25 and orifice 26 may be considered to consist of a plurality of surfaces or plates.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erma Cameron whose telephone number is 571-272-1416. The examiner can normally be reached on 8:30-6:00, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ERMA CAMERON  
PRIMARY EXAMINER

October 23, 2006

Erma Cameron  
Primary Examiner  
Art Unit 1762